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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,276	04/12/2004	James Alfred White		5667

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EXAMINER

HAMILTON, ISAAC N

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/822,276

Applicant(s)

WHITE, JAMES ALFRED

Examiner

Isaac N Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. The claim is objected to because of the following informalities: Only one period (.) should be used at the end of the claim instead of throughout the claim, a semicolon (;) is suggested to separate the paragraphs; line 9, "a" should be changed to --an--; line 7, "sharpened one" should be changed to --sharpened on one--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. The claim is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 15, "a feed controlled rotary and forward motion" is indefinite because it appears that this is an element of the invention, however, it is believed that this limitation is only defining the action of the spindle. The limitation should be changed to reflect the action of the spindle. In line 22, it is not clear what "it" is referring to.

The claim recites the limitation "the spindle drive" in line 9. There is insufficient antecedent basis for this limitation in the claim.

The claim recites the limitation "the pilot" in line 12. There is insufficient antecedent basis for this limitation in the claim.

The claim recites the limitation "the drive nut" in line 19. There is insufficient antecedent basis for this limitation in the claim.

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The claim recites the limitation "the drive support" in line 23. There is insufficient antecedent basis for this limitation in the claim. For the purposes of examination, drive support is interpreted to be the same element as the drive nut.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The claim is rejected under 35 U.S.C. 103(a) as being unpatentable over Mason (2,489,581) in view of Mason (3,211,202), hereafter '202. Mason discloses vertical blade 2, 13; blade angled in column 2, lines 27-32; blade support 14; threaded drive spindle 3; pilot pin 4; hole 18'; lock nut 16, 17; the limitation of "a continuous spiral slice of 0.0625 inch thickness" does not further limit the structure; drive nut guide 7; drive nut juxtaposed spindle 3 and drive nut guide 7; drive support juxtaposed spindle 3 and drive nut guide 7; four toothed driver 10, 11 shown in figures 1 and 3; lock nut juxtaposed between driver 10 and spindle 3; hand crank 9; sharp edge 13; base 5; counter stop arms 8. Mason does not disclose four rubber support legs, however, '202 teaches four support legs in figures 2 and 3. It would have been obvious to provide four rubber support legs in Mason as taught by '202 in order to prevent the apparatus from sliding on a wet surface.

The combination of Mason and '202 discloses the claimed invention except for the angle of the blade being in the range of 15 to 25 degrees with 20 degrees being optimal, and the spindle having 3/8" – 16 threads. It would have been obvious to one of ordinary skill in the art to

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provide the elements mentioned above for the purpose of maximizing cutting efficiency for different types of potatoes, such as, sweet potatoes, Idaho potatoes, and red potatoes. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



IH

May 13, 2005



Allan N. Shoap
Supervisory Patent Examiner
Group 3700